

**IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

In re

Chapter 9

CITY OF DETROIT, MICHIGAN,

Case No. 13-53846

Debtor.

Hon. Thomas J. Tucker

**STIPULATION SEEKING ENTRY OF ORDER (I) DISMISSING DETROIT  
FIRE FIGHTERS ASSOCIATION'S MOTION FOR ENTRY OF AN  
ORDER ENFORCING THE NOVEMBER 30, 2015 GLOBAL  
SETTLEMENT, ETC. [DOC. NO. 11811] WITH PREJUDICE, (II)  
WITHDRAWING CLAIM NO. 3681 AS MOOT, AND (III) OTHER  
RELATED RELIEF**

The City of Detroit ("City") and the Detroit Fire Fighters Association, IAFF Local 344 ("DFFA") (together, the "Parties" and each a "Party"), by and through their undersigned counsel, stipulate and request that this Court enter an order which dismisses with prejudice the DFFA's *Motion for Entry of an Order Enforcing the November 30, 2015 Global Settlement Between the DFFA and the City of Detroit Resolving That Portion of DFFA Claim No. 2812 [sic]<sup>1</sup> Related to the Grievance Filed on Behalf of [sic] Fire Fighter Bradley Smola and*

---

<sup>1</sup> The Motion incorrectly refers to the claim number as 2812. DFFA Claim 2812, the DFFA's omnibus grievance claim, was amended by DFFA Claim No. 3681. Both claims included the Smola Grievance. Claim No. 2812 has been expunged as a duplicate claim and is replaced by Claim No. 3681.

*Requiring Smola's Reinstatement and for Related Relief* [Doc. No. 11811] (the “Motion”), in the form attached as Exhibit A.

## **RECITALS**

WHEREAS, the Motion arose out of a dispute between the City and the DFFA over the enforcement of certain terms of a Global Settlement Agreement dated November 30, 2015, related to a grievance filed by the DFFA on behalf of member Bradley Smola (“Smola”) and which had been asserted by the DFFA in its omnibus grievance claim, Claim No. 3681.

WHEREAS, the City and the DFFA were parties to a grievance arbitration proceeding—DFFA Grievance No. 31-11—involving a claim by the DFFA on behalf of Smola for reinstatement to employment and for other relief pursuant to the then extant collective bargaining agreement between the City and the DFFA (the “Smola Claim”) which resulted in extensive litigation through which the DFFA sought to enforce the Smola Claim;

WHEREAS, on July 18, 2013 (the “Petition Date”), the City commenced this case under chapter 9 of title 11 of the Bankruptcy Code, staying the DFFA’s prosecution of the Smola Claim;

WHEREAS, the Smola Claim was included in Claim No. 3681, the omnibus protective claim filed by the DFFA on or about April 17, 2014, in order to preserve

DFFA members' rights with regard to grievances filed by the DFFA on behalf of its members;

WHEREAS, on October 22, 2014, the City filed the Eighth Amended Plan for the Adjustment of Debts of the City of Detroit (October 22, 2014) [Doc. No. 8045] ("Plan"),<sup>2</sup> which Plan became effective on December 10, 2014 ("Effective Date");

WHEREAS, on or about November 30, 2015, the DFFA and the City entered into that certain "Global Settlement Agreement" which sought to resolve the DFFA's pre-petition grievances, including those asserted by DFFA Claim No. 3681. The Global Settlement Agreement was attached to the Motion as Exhibit 6A;

WHEREAS, on March 15, 2017, the DFFA filed its Motion, and on April 5, 2017, the City filed its Response opposing the Motion [Doc. No. 11837].

WHEREAS, the DFFA vigorously pursued the Motion, and the City vigorously opposed it.

WHEREAS, after the Motion was filed, the DFFA and the City engaged in continuing negotiations in an effort to resolve the issues raised by the Motion. As a result of those negotiations, the Parties developed a "Proposed Settlement

---

<sup>2</sup> Capitalized terms not otherwise defined in this Stipulation shall have the meanings ascribed to them in the Plan.

Agreement,” a copy of which has been provided to Smola and which is in the possession of the Parties.

WHEREAS, Smola was given a full opportunity to accept or reject the Proposed Settlement Agreement. Smola was informed that regardless of whether he accepted or rejected the Proposed Settlement Agreement, the DFFA would not pursue the Smola Claim further. Smola chose not to accept the Proposed Settlement Agreement;

WHEREAS, in light of Smola’s decision not to accept the Proposed Settlement Agreement, the parties stipulate and agree that the Smola Claim is withdrawn from the Global Settlement Agreement.

WHEREAS, on August 2, 2013, the Michigan Court of Appeals entered an order administratively closing the related state court appeal, Michigan Court of Appeals Case No. 316319 (the “Appeal”) without prejudice to the merits of the Appeal. The Appeal is from a Wayne County Circuit Court order, dated May 2, 2013, *City of Detroit v. DFFA*, Case No. 12-006507-CK (the “Circuit Court Order”). The Circuit Court Order vacated and remanded the arbitration award in Case No. 54 390 01013 11, Gr. No. 31-11, relating to DFFA Grievance No. 31-11 filed by the DFFA on behalf of Smola (the “Arbitration Award”), which Arbitration Award, circuit court order and Appeal were the basis of the Smola Claim;

WHEREAS, the parties stipulate and agree that this stipulation and proposed order fully and finally resolves all of the issues raised by the Appeal;

WHEREAS, the Parties, therefore, stipulate and agree that, notwithstanding any notice of stay modification issued by the City, the Appeal is to remain closed, and neither the DFFA nor the City will take any action to reopen the Appeal;

WHEREAS, the Parties stipulate and agree that the Motion is to be dismissed with prejudice and without costs;

WHEREAS, the Parties stipulate and agree that all other disputes in Claim No. 3681 have been resolved and settled, and Claim No. 3681 should therefore be withdrawn as moot;

NOW, THEREFORE, the parties respectfully request that the Court enter the order attached as Exhibit A confirming the withdrawal of the Smola Claim from the Global Settlement, dismissing the Motion with prejudice and without costs or fees to either party, enjoining the parties from reopening the Appeal, and withdrawing DFFA Claim No. 3681 as moot.

STIPULATED AND AGREED TO ON February 20, 2018:

LAW OFFICE OF BARBARA A. PATEK, P.L.C.

By: /s/ Barbara A. Patek  
Barbara A. Patek, Esq.  
Law Office of Barbara A. Patek, P.L.C.  
27 E. Flint Street, Suite 2  
Lake Orion, Michigan 48362

Telephone: (248) 814-9470

[pateklaw@gmail.com](mailto:pateklaw@gmail.com)

-and-

By: /s/ Andrew A. Nickelhoff

Andrew Nickelhoff, Esq. (P37990)

Mami Kato, Esq. (P74237)

Sachs Waldman, P.C.

2211 E. Jefferson Avenue

Detroit, Michigan 48207

(313) 496-9429

[anickelhoff@sachswaldman.com](mailto:anickelhoff@sachswaldman.com)

[mkato@sachswaldman.com](mailto:mkato@sachswaldman.com)

Counsel for Detroit Fire Fighters Association

MILLER CANFIELD PADDOCK & STONE, PLC

By: /s/ Marc N. Swanson

Marc N. Swanson (P71149)

Erika L. Giroux (P81998)

150 West Jefferson, Suite 2500

Detroit, Michigan 48226

Telephone: (313) 496-7591

Facsimile: (313) 496-8451

[swansonm@millercanfield.com](mailto:swansonm@millercanfield.com)

[giroux@millercanfield.com](mailto:giroux@millercanfield.com)

Counsel for the City of Detroit, Michigan

## **EXHIBIT A**

**IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

In re Chapter 9  
CITY OF DETROIT, MICHIGAN, Case No. 13-53846  
Debtor. Hon. Thomas J. Tucker

**ORDER (I) DISMISSING DETROIT FIRE FIGHTERS ASSOCIATION'S  
MOTION FOR ENTRY OF AN ORDER ENFORCING THE NOVEMBER  
30, 2015 GLOBAL SETTLEMENT, ETC. [DOC. NO. 11811] WITH  
PREJUDICE, (II) WITHDRAWING CLAIM NO. 3681 AS MOOT, AND  
(III) OTHER RELATED RELIEF**

This matter is before the Court pursuant to the Parties' *Stipulation Seeking Entry of Order (I) Dismissing Detroit Fire Fighters Association's Motion for Entry of an Order Enforcing the November 30, 2015 Global Settlement, Etc. [Doc. No. 11811] With Prejudice, (II) Withdrawing Claim No. 3681 as Moot, and (III) Other Related Relief* (the "Stipulation").<sup>1</sup> The Court has read the Stipulation, finds good cause for entry of this Order, and is otherwise fully advised in the premises.

NOW THEREFORE, IT IS HEREBY ORDERED that:

<sup>1</sup> Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Stipulation

1. The *Motion of the Detroit Fire Fighters Association, IAFF Local 344* (“DFFA”) for *Entry of an Order Enforcing the November 30, 2015 Global Settlement Between the DFFA and the City of Detroit Resolving That Portion of DFFA Claim No. 2812 [sic] Related to the Grievance Filed on Behalf of [sic]* *Fire Fighter Bradley Smola and Requiring Smola’s Reinstatement and for Related Relief* [Doc. No. 11811] is dismissed with prejudice and without costs or fees to either party.

2. The Smola Claim is hereby withdrawn from the Global Settlement Agreement.

3. Notwithstanding any notice of stay modification that may have been issued by the City, the City and the DFFA are enjoined from taking any action to reopen the Appeal, as the matters raised by the Appeal have been fully and finally resolved by this Order.

4. This Court retains jurisdiction for purpose of enforcing paragraph 3 of this Order;

5. The DFFA shall provide a copy of this Order is to the Michigan Court of Appeals’ clerk’s office, for notice purposes only.

6. Claim No. 3681 is withdrawn as moot.

7. The City’s claims and noticing agent is authorized to update the claims register to reflect the relief granted in this order.